

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
37.104.101, 37.104.109, 37.104.218,)	AMENDMENT
and 37.104.221 pertaining to emergency)	
medical services)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On July 1, 2006 the Department of Public Health and Human Services proposes to amend the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you need to request an accommodation, contact the department no later than 5:00 p.m. on June 22, 2006, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.104.101 DEFINITIONS The following definitions apply in subchapters 1 through 4:

(1) remains the same.

(2) "Advanced life support service" means an ambulance service or nontransporting medical unit that has the capacity and is licensed by the department to provide care at ~~any of the following levels of care or endorsements~~ the EMT-Paramedic equivalent level 24 hours a day, seven days a week:

~~(a) EMT-B 1, EMT-B 3, EMT-B 4, and EMT-B 5 endorsements;~~

~~(b) EMT-I and all EMT-I endorsements; or~~

~~(c) EMT-P and all EMT-P endorsements.~~

(3) through (20) remain the same.

(21) "First responder with an ambulance endorsement" means an individual licensed by the board as an EMT-F ambulance (EMT-F3) as listed in ARM 24.156.2751.

(21) through (21)(c) remain the same but are renumbered (22) through (22)(c).

~~(22)~~ (23) "Level of service" means either basic life support, intermediate life support or advanced life support services.

(23) and (24) remain the same but are renumbered (24) and (25).

~~(25)~~ (26) "Permit" means the sticker affixed to a ground ambulance or a certificate placed in an air or ground ambulance indicating the ambulance vehicle has met the requirements of these rules.

(26) through (31) remain the same but are renumbered (27) through (32).

~~(32)~~ (33) "Supplemental training" means a training program for registered nurses utilized by an emergency medical service that complements their existing education and experience and results in knowledge and skill objectives comparable to the level of EMT training corresponding to the license level ~~authorized by the service medical director at which the service is licensed or authorized.~~

(33) through (35) remain the same but are renumbered (34) through (36).

AUTH: 50-6-323, MCA

IMP: 50-6-323, MCA

37.104.109 BASIC LIFE SUPPORT SERVICE LICENSING (1) An ambulance service or nontransporting medical unit (NTU) capable of providing service only at the basic life support level will be licensed at the basic life support level.

~~(a) A basic life support service or NTU that provides care at the EMT-B-2 level will receive a basic life support license.~~

(b) ~~(a)~~ Other than as defined in (1)(a), an An ambulance service or NTU that provides advanced life support but cannot reasonably provide it 24 hours per day, seven days per week due to limited personnel, will receive a basic life support license.

~~(2)~~ (b) Ambulance services or NTUs shall request authorization for (1)(a) ~~or (b)~~ by submitting a service plan on forms provided by the department.

AUTH: 50-6-323, MCA

IMP: 50-6-323, MCA

37.104.218 MEDICAL CONTROL: SERVICE MEDICAL DIRECTOR

(1) and (2) remain the same.

(3) As provided in ARM 24.156.2701, a designated service medical director must be a physician or physician assistant ~~certified~~ who is responsible professionally and legally for overall medical care provided by a licensed ambulance service.

AUTH: 50-6-323, MCA

IMP: 50-6-323, MCA

37.104.221 MEDICAL CONTROL: ADVANCED LIFE SUPPORT

(1) An advanced life support service must have ~~either:~~

~~(a) a two-way communications system, approved by the department, with either: between the advanced life support service personnel and~~

~~(a) a 24-hour physician staffed emergency department; or~~

~~(b) a physician approved by the service medical director.~~

~~(2) A service that provides only endorsement level EMT-B-2 as provided for in ARM 24.156.2751 is not required to have online medical direction.~~

AUTH: 50-6-323, MCA
IMP: 50-6-323, MCA

3. The Department of Public Health and Human Services (the department) is proposing these amendments to Administrative Rules of Montana (ARM) 37.104.101 "Definitions", 37.104.109 "Basic Life Support Service Licensing", 37.104.218 "Medical Control: Service Medical Director", and 37.104.221 "Medical Control: Advanced Life Support" pertaining to emergency medical services (EMS). The department believes these amendments are necessary to implement changes agreed to by the department in response to comments on EMS regulations it amended and adopted December 22, 2005. If these changes are not adopted, the rules regulating licensing of ambulance and nontransporting units will be inconsistent with each other and with the Board of Medical Examiners' rules, making them hard to understand. The inconsistencies will also make the rules difficult for EMS services and the public to comply with and will unnecessarily complicate the department's ability to administer them. One of the changes requires the amendment of ARM 37.104.109, a rule that was not mentioned in the original notice of intended action. The other proposed changes agreed to by the department were inadvertently omitted from the notice of adoption. Therefore, as provided in 2-4-302, MCA, the department is proposing these amendments.

On July 14, 2005, the department published MAR Notice No. 37-352 pertaining to the proposed adoption, amendment, and repeal of certain rules relating to emergency medical services, at page 1238 of the 2005 Montana Administrative Register, issue number 13. The department conducted a public hearing August 4, 2005 at 10:00 a.m. in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana. Several comments were submitted. The rules were adopted December 22, 2005 and a notice of their adoption was published at page 2681 of the Montana Administrative Register, issue number 24.

One commentor suggested that all levels of endorsement above the basic Emergency Medical Technician (EMT) level be defined as "advanced life support" and that the proposed licensing exception for providers with an EMT-B 2 endorsement (monitoring) be deleted. The department agreed, and in response to the comment stated that the applicable rules would be changed. Inadvertently, none of the necessary changes were included in the notice of adoption. Therefore, the department is proposing the amendment of ARM 37.104.101(2) "Advanced life support", ARM 37.104.101(23), "Level of Service", ARM 37.104.109, and ARM 37.104.221 to delete references to levels of care or endorsements above EMT basic (EMT-B).

Another commentor suggested that the term "first-responder-ambulance" should be eliminated and replaced with "first-responder with an ambulance endorsement". The department agreed, and indicated it had done so in the adoption notice. Inadvertently, the definition was not changed, but deleted altogether. Therefore, the

MAR Notice No. 37-383

department is proposing the amendment of ARM 37.104.101 to add a definition "First responder with an ambulance endorsement" referring to the Board of Medical Examiners rule, ARM 24.156.2751.

Another commentor requested that specific language be added to proposed ARM 37.104.101 to clearly allow a service medical director to approve nurses who are already competent in their "knowledge and skill objectives comparable to the level of EMT training" without requiring experienced nurses to complete supplemental training. The department agreed to do so and, in its response to the comment stated the language it intended to add to ARM 37.104.101. Inadvertently, the language was not included in the rule as it was adopted. Therefore, the department is proposing the amendment of ARM 37.104.101(32) "Supplemental training" to include the necessary language allowing a service medical director to consider a nurse's experience when assessing supplemental training needs.

A commentor objected to the department's proposal to delete the requirement that all licensed ambulance vehicles have an identification sticker under ARM 37.104.101(27) "Permit". The department agreed that it is necessary for law enforcement officers to be able to visually determine that a vehicle is a bona fide ambulance. The department agreed to restore the identification sticker requirement. However, the necessary change was inadvertently omitted from the adoption notice. Therefore, the department is proposing an amendment to ARM 37.104.101(27) to restore the requirement and to specify that an identification sticker must be affixed to a ground ambulance as well.

The department is taking this opportunity to change the structure of ARM 37.104.221 to make it clear that an ALS must have a two-way communication system so that an ambulance vehicle can communicate with a 24-hour physician staffed emergency department or a physician approved by the medical director. As currently numbered, the rule could be misinterpreted. The proposed amendment would eliminate the need for interpretation. No change of meaning is intended.

Number of Persons Affected and Fiscal Impact

There are a total of 144 ambulance services and 112 nontransporting units in Montana that could be affected by the proposed rule amendments. Since these proposed amendments neither increase the existing license fee nor create a new fee, the department does not anticipate any financial impact on the department or the regulated entities resulting from this proposal.

4. Interested persons may submit their data, views, or arguments concerning the proposed action in writing to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on June 29, 2006. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according

to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

5. If a person who is directly affected by the proposed action wishes to express data, views, and arguments orally or in writing at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov no later than 5:00 p.m. on June 29, 2006.

6. If the Department of Public Health and Human Services receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of those who are directly affected by the proposed action, from the administrative rule review committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who are directly affected, a hearing will be held at a later date and a notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 25 based on the 256 ambulance services and nontransporting units affected by rules covering emergency medical services.

/s/ John Koch
Rule Reviewer

/s/ Russell Cater for
Director, Public Health and
Human Services

Certified to the Secretary of State May 22, 2006.